



LAVELLE LAW
— & ASSOCIATES P.C. —

WILLIAM T. LAVELLE, ESQ.
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*Also Admitted in California
Eastern District of New York
Southern District of New York*

January 28, 2021

Hon. Judge Joanna Seybert
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Flanagan, et al v. William G. Propy LLC, et al
CV 18-1303 (JS)(AKT)

Dear Judge Seybert:

As the court is aware, I represent the plaintiffs in the above captioned action. I am in receipt of the court's order dated January 20, 2021 asking that I file a Status Report informing the Court on how I intend to proceed in this action in light of defendants' failure to retain new counsel, pursuant to the Court's Electronic Scheduling Order of April 24, 2020. I sincerely apologize to the Court for my admittedly delayed response in this matter.

My office was closed from March 31, 2020 to July 31, 2020 due to Covid-19. My untimely response is due to the fact that three (3) of my four (4) staff members (all non-attorneys) as well as myself all tested positive for Covid-19, all within a few weeks of one another, and as a result I had no choice but to shut down my entire office for one (1) entire month. Unfortunately, my office's Covid-19 outbreak did not result in merely minor symptoms and resulted in a significant amount of time missed from work for all individuals so infected.

Additionally, almost immediately after I was cleared to return to work my very elderly mother-in-law and father-in-law (who reside in Florida) ran into some serious health issues which required my wife and me to spend two (2) weeks in Florida dealing with the situation. My mother-in-law sustained a fall wherein she fractured her hip and underwent hip replacement surgery that encountered complications which required an extended hospital stay. As a result, my wife and I needed to tend to her needs and set her up in a long term rehabilitation facility.

As to my father-in-law, he is suffering from dementia and other medical conditions, and my wife and I had to set him up in a long term care facility which took some time to accomplish. As a result, of these personal issues I was out of the office for an additional two (2) weeks during which time my staff was still not fully back to work because of the lingering effects of Covid-19.

As to the status of this case --- I am sure that the court is aware that defendant, William G. Proefriedt has previously hired and fired two (2) attorneys who were representing him and his corporation in this action, and as a result this Court gave the defendant until June 30, 2020 to retain new counsel, however, the court file still does not reflect an attorney of record for the corporate defendant.

Subsequently, back in November 2020, I had a two (2) phone calls with Matthew Tuohy, Esq. who advised me that he represented defendant, William G. Proefriedt in this matter, even though to this day Mr. Tuohy has still not filed a Notice of Appearance. During one of these conversations Mr. Tuohy made an offer of settlement which I presented to the trustees of Local 66 on November 18, 2020. In response, the trustees rejected Mr. Tuohy's offer and I verbally advised Mr. Tuohy accordingly.

On January 25, 2021, pursuant to the order of the court dated January 20, 2021, I e-mailed a copy of the aforesaid order along with a cover letter to defendant, William G. Proefriedt (who is also the principal of Defendant, William G. Prophy, LLC d/b/a WGP Contracting, Inc.) and on the same day Mr. Proefriedt responded by e-mail as follows¹:

“Matt Tuohy is aware and as you should be the New York State Department of Labor has determined the work we did over the past was not local 66 work. This action of yours is fraudulent and cost me hundreds of thousands in fees, and millions in lost work.” *(A copy of the aforesaid e-mail is attached hereto as Exhibit “A.”)*

In response to Mr. Proefriedt's aforesaid e-mail I sent him an e-mail that said the following:

“I'm sure that if the department of labor issued a decision that your attorney can certainly send me a copy of the determination supporting your position. Your attorney should be filing a notice of appearance with the federal court, that way I will actually know whether or not he's representing you and/or your corporation in this matter.” *(A copy of the aforesaid e-mail is attached hereto Exhibit “A.”)*

On January 26, 2021, I received an e-mail from Mr. Tuohy at 8:08 a.m. asking that I call him when I got a chance, and within a few minutes thereafter I called Mr. Tuohy, however, he did not answer my call. At 8:23 a.m. I sent Mr. Tuohy a text message asking that he call me when he is free and Mr. Tuohy responded by saying: My main man! . . . getting dressed and will call you 15-20”, however, Mr. Tuohy did not call me back as promised. *(A copy of Mr. Tuohy's aforesaid e-mail and text message are attached hereto as Exhibit “B.”)*

¹ I also mailed a copy of the aforesaid order along with a cover letter to William G. Proefriedt and William G. Prophy, LLC d/b/a WGP Contracting, Inc. to 85 Spruce Road, West Babylon, NY 11704, as per the affidavit of mailing/service that I filed in ECF.

On January 27, 2021, I sent both Mr. Proefriedt and Mr. Tuohy separate e-mails, wherein, I expressed my position as to the status of the case. Later that same day, I received a call from Mr. Tuohy at 6:15 p.m. as I was in the middle of having dinner, and he said that he would call me back this morning at 8:00 a.m., however, as this moment Mr. Tuohy has still don't called me back. *(A copy of the two (2) aforesaid e-mails are attached hereto attached hereto as Exhibit "C.")*

Lastly, on December 16, 2017, Mr. Proefriedt sent me an e-mail, wherein, he stated that WGP Contracting, Inc. "is dissolved." Being that WGP Contracting, Inc. has admittedly been dissolved, I would be willing to agree to allow the defendant corporation to execute a confession of judgment, and, if the corporation is not willing to do so I will move to strike its answer and seek a default judgment. As to Mr. Proefriedt, individually, I am prepared to proceed to trial. *(A copy of the aforesaid e-mail is attached hereto as Exhibit "D.")*

Respectfully yours

A handwritten signature in black ink, appearing to read "William T. LaVelle". The signature is fluid and cursive, with the first name "William" and last name "LaVelle" clearly distinguishable.

William T. LaVelle, Esq.

Cc: *Sent via email to billproef@aol.com*
William G. Proefriedt
85 Sprucewood Road
West Babylon, NY 11704

Sent via email to billproef@aol.com
William G. Prophy LLC d/b/a WGP Contracting, Inc.
85 Sprucewood Road
West Babylon, NY 11704

Sent via email to matttuohy@optonline.net
The Law Offices of Matthew Tuohy
7 High Street, Suite 300
Huntington, NY 11743

EXHIBIT “A”

From: wtlpc@aol.com,
To: billproef@aol.com,
Cc: matttuohy@optonline.net,
Subject: Re: Flanagan v. William G Prophy LLC, et all
Date: Mon, Jan 25, 2021 5:28 pm

I'm sure that if the department of labor issued a decision that your attorney can certainly send me a copy of the determination supporting your position.

Your attorney should be filing a notice of appearance with the federal court, that way I will actually know whether or not he's representing you and/or your corporation in this matter.

Bill

Sent from my iPhone

On Jan 25, 2021, at 4:20 PM, billproef@aol.com wrote:

Bill Lavelle,

Matt Tuohy is aware and as you should be the New York State Department of Labor has determined the work we did over the past was not local 66 work. This action of yours is fraudulent and cost me hundreds of thousands in fees, and millions in lost work.

William G Proefriedt

-----Original Message-----

From: LaVelle Law & Associates P.C. <wtlpc@aol.com>
To: billproef@aol.com <billproef@aol.com>
Sent: Mon, Jan 25, 2021 3:35 pm
Subject: Flanagan v. William G Prophy LLC, et all

Mr. Proefriedt:

Please see attached documents.

William T. Lavelle, Esq.
LaVelle Law & Associates, P. C.
57 East Main Street
Patchogue, New York 11772
Phone: 631-475-0001 Ext. 111
Fax: 631-447-7150
e-mail: wtlpc@aol.com

EXHIBIT “B”

From: matttuohy@optonline.net,
To: wtlpc@aol.com,
Subject: Lavalle
Date: Tue, Jan 26, 2021 8:08 am

Please call me when you get a chance thx



Matthew >

iMessage

Yesterday 8:23 AM

Hey Matt it's Bill
LAVELLE I just
tried calling you
when you're free
give me a call
Thanks

My main
man !....getting
dressed and will
call you 15-20



iMessage



LTE



MT

Matthew >

LAVELLE I just
tried calling you
when you're free
give me a call
Thanks

My main
man !....getting
dressed and will
call you 15-20

Ok

Delivered



iMessage



EXHIBIT “C”

COMPOSE

Search Mail

- Today on AOL
- New Mail 24
- Old Mail
- Drafts 57
- Sent
- Spam 116
- Recently Deleted
- Contacts
- Calendar
- ▼ Folders
 - Saved Mail
 - Apple Mail T...
 - Archive
 - craigs list po...
 - Criminal 9
 - Lease

Reply
Reply All
Forward
Delete
More ▼

Regarding WGP/ William Proefiedt

LaVelle Law & Associates P.C. (wtlpc@aol.com)

To: matttuohy@optonline.net Details ▼

Wed, Jan 27,

Mr. Tuohy:

I have sent this email to you as a courtesy. Please see below.

Mr. Proefiedt:

Below is my response to your previous email about Local 66 work. I am also sending a copy of this email to Matt Tuohy as a courtesy, as I am unsure whether he has been retained as your lawyer for this matter. I have reached out by phone and text message but he has not returned my calls. If, in fact, Mr. Tuohy is your lawyer for this matter, he filed a notice of appearance.

Prior to any lawsuit being filed, you were given the opportunity to have a settlement discussion to contest, explain documentation and/or review the audit in an attempt to settle the case. My client would accept affidavits from you to determine what actual work they performed. You never in "good faith" cooperated or attempted to resolve this prior to the lawsuit being filed. In addition, you requested, through email correspondence, proof from Local 66 the client had an apprentice program, which is inconsistent if you had no jurisdictional work. However, your bid on jc accepted by municipalities and you then failed to notify the hall and request men or apprentices for said projects

William T. Lavelle, Esq.
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 Fax: 631-447-7150
 e-mail: wtlpc@aol.com

Reply
Reply All
Forward

From: wtlpc@aol.com,
To: billproef@aol.com,
Subject: Regarding this matter - Local 66
Date: Wed, Jan 27, 2021 3:22 pm

Mr. Proefiedt:

Below is my response to your previous email about Local 66 work. I am also sending a copy of this email to Matthew Tuohy as a courtesy, as I am unsure whether he has been retained as your lawyer for this matter. I have reached out to him by phone and text message but he has not returned my calls. If, in fact, Mr. Tuohy is your lawyer for this matter, he has not filed a notice of appearance.

Prior to any lawsuit being filed, you were given the opportunity to have a settlement discussion to contest, explain, provide documentation and/or review the audit in an attempt to settle the case. My client would accept affidavits from your workers to determine what actual work they performed. You never in "good faith" cooperated or attempted to resolve this issue prior to the lawsuit being filed. In addition, you requested, through email correspondence, proof from Local 66 that my client had an apprentice program, which is inconsistent if you had no jurisdictional work. However, your bid on jobs were accepted by municipalities and you then failed to notify the hall and request men or apprentices for said projects.

William T. Lavelle, Esq.
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57 East Main Street
Patchogue, New York 11772
Phone: 631-475-0001 Ext. 111
Fax: 631-447-7150
e-mail: wtlpc@aol.com

EXHIBIT “D”



LaVelle & Associates Law Office <lavellelawassociates@gmail.com>

Please schedule an Audit with Local 66

william g proefriedt <billproef@aol.com>

Sat, Dec 16, 2017 at 3:51 PM

To: LaVelle & Associates Law Office <lavellelawassociates@gmail.com>

To whom it may concern:

As per a specific contract we entered into; an approved apprenticeship program was a requirement, Local 66 was not able to provide an apprentice to fulfill this requirement thereby rescinding the agreement. Further WGP Contracting Inc. has legally dissolved.

William G Proefriedt

[Quoted text hidden]

[Quoted text hidden]

<wgp audit local 66-12152017142946.pdf>